

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION) CASE NO: 18-cv-1776 (JRT/HB)
)
)
)
)

**NON-PARTY CASH-WA DISTRIBUTING CO. OF FARGO, LLC'S
MEMORANDUM OF LAW IN SUPPORT OF MOTION TO QUASH SUBPOENA**

Non-party Cash-Wa Distributing Co. of Fargo, LLC ("Cash-Wa"), pursuant to LR(b)(1)(c) offers this memorandum of law in support of its Motion to Quash the subpoena issued by Commercial and Institutional Indirect Purchaser Plaintiffs.

BACKGROUND

Commercial and Institutional Indirect Purchaser Plaintiffs issued a subpoena directed to Cash-Wa Distributing Co. of Fargo, LLC c/o Registered Agent Shawn Ressler, 4101 15th Ave N, Fargo, ND 58102. The subpoena commands the place of compliance with the subpoena at Cuneo Gilbert & LaDuca, LLP, 4725 Wisconsin Ave., NW, Suite 200, Washington D.C. 20016. Fargo, North Dakota and Washington D.C. are over 100 miles from each other.

ARGUMENT

When issuing a subpoena to a non-party, a party must comply with the geographical limitations imposed under Fed. R. Civ. P. 45(c). Specifically, the place of compliance must be “within 100 miles of where the person resides, is employed, or regularly transacts business in person.” Fed. R. Civ. P. 45(c)(1)(A). Here the subpoena was issued to Cash-Wa in Fargo, North Dakota, but requires the place of compliance with the subpoena in Washington D.C. Thus, the subpoena requires Cash-Wa to comply beyond the geographical limits specified in Fed. R. Civ. P. 45(c). By rule, “the court for the district where compliance is required **must** quash or modify a subpoena that:... (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c)...” *See* Fed. R. Civ. P. 45(d)(3)(A)(ii). Here, the subpoena does not comply with geographical limits imposed by rule and the Court must quash the subpoena.

CONCLUSION

For the foregoing reasons, non-party Cash-Wa respectfully requests the Court quash the subpoena issued by Commercial and Institutional Indirect Purchaser Plaintiffs.

CASH-WA DISTRIBUTING CO. OF FARGO,
LLC, NON-PARTY

By: Donna Law Firm, P.C.
7601 France Ave S, Ste 350
Minneapolis, MN 55435
Phn: (952) 562-2460
Fax: (952) 562-2461
dmitchell@donnalaw.com

/s/ Daniel R. Mitchell
Daniel R. Mitchell

and

By: Baylor Evnen, LLP
Wells Fargo Center
1248 "O" Street, Suite 600
Lincoln, NE 68508
402/475-1075
aweeks@baylorevnen.com

/s/ Andrew D. Weeks
Andrew D. Weeks, Nebraska Bar No. 22733
Pro hac vice application pending

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to those listed.

By: */s/ Daniel R. Mitchell*
Daniel R. Mitchell

483650